had executed, and before the composition notes had been tendered to C. N., he wrote to the defendant's solicitor withdrawing from the arrangement. The composition notes were subsequently tendered to C. N., but he refused to accept them. By the plaintiffs' Act of Incorporation the management of their affairs was to be by directors, who had authority to open branches and appoint the officers. The chief place of business was to be at T., where the corporate seal was kept.

Held, that the deed was not binding on the plaintiffs, not being under the corporate seal, nor under a signature or sign manual whereby they executed documents; and also the execution in question did not purport to be by the plaintiffs, but "for the bank;" apart, however, from the validity of the execution, C. N., on the evidence, had authority to agree to accept less than the whole of the claim, and did so agree, and the debtor performed his part by tendering the notes; and under R. S O. (1887), c. 44, s. 53, ss. 7, the agreement was irrevocable.

Lash, Q.C., for plaintiffs.

Aylesworth, for defendant.

Divisional Court.] [June 29.

WESTERN CANADA LOAN CO. *v.* GARRISON.

Statute of Limitations—Witnessing mortgage covering lands in question—Ignorance of lands included—Effect of—Estoppel.

In 1870 the defendant, under agreement therefor with his father, the owner of a farm, went into possession of a certain portion thereof, which pointed to the ownership in the defendant of the land, but whether by deed or will did not clearly appear, though apparently by the latter; and remained in possession for sixteen years. In 1876 the father executed a mortgage to the L. & C. Loan Co., which was witnessed by the defendant, who made the affidavit of execution on which the mortgage was registered. The defendant swore that he was not aware of the contents of the mortgage, nor that it included the portion of which he was in possession. In 1882 the father made a mortgage to the plaintiffs, also of the whole lot, and on default the plaintiffs brought an action to recover possession of the portion occupied by him.

Held, that the evidence showed that the defendant had been in exclusive possession of the land occupied by him for the statutory period, so as to acquire a title thereto by possession; and that the fact of his being a witness to the mortgage to the L. & C. Co., and its subsequent registration, under the circumstances, did not by virtue of s. 78 of the Registry Act, R. S. O. (1877), c. 111, create an estoppel.

Lefroy, for plaintiffs.

Porter (of Belleville), for defendant.

Divisional Court.] [June 29.

NORTH BRITISH MERCANTILE INSURANCE CO. *v.* KEAN.

Principal and surety—Notice terminating liability—Bond applicable to present and future appointment.

In June, 1884, K. applied to the plaintiffs to be appointed their agent at O., and was informed that he must secure sureties, whereupon he applied to the defendants, who agreed to act for him, and executed a bond, reciting that K. had been appointed agent of the company at O. The bond was sent to the head office at M., but nothing was done until December, 1885, when, on K. writing to the head office he received a certificate appointing him agent. In September, 1884, in consequence of a disagreement between the defendants and K., they stated they wrote notifying the head office that they repudiated their suretyship, and, receiving no answer, assumed that the matter was at an end. In an action against the defendants as sureties for K.'s default,

Held, that the defendants were discharged by the notice given terminating their suretyship, and that the weight of evidence showed that both defendants had given notice and not one of them only, as found by the learned judge at the trial; but this was of no importance, for after the company had received notice from one of the sureties, they should have notified the other surety, more especially as no appointment had then been made.

Per ROSE, J., also, that no appointment having been made when the bond was executed, the sureties could not be made liable for default made months after, even if they had received notice of the subsequent appoint-